



LEGISLATIVE FINANCE COMMITTEE

58TH Montana Legislature

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MINUTES

June 17 & 18, 2004
Room 137, State Capitol
Helena, Montana

ROLL CALL

Sen. Keith Bales
Rep. John Brueggeman
Rep. Gary Forrester
Rep. Dave Kasten
Rep. Dave Lewis
Rep. Monica Lindeen
Sen. Rick Laible
Sen. Emily Stonington
Senator Jon Tester
Sen. Joe Tropila
Sen. Tom Zook
Clayton Schenck, Legislative Fiscal Analyst
Diane McDuffie, Committee Secretary

ABSENT

Rep. Rosalie Buzzas

Call to Order (Tape 1A-001)

Representative Gary Forrester, Chair, called the 189th meeting of the Legislative Finance Committee (LFC) to order at 1:00 p.m. on Thursday, June 17, 2004. The meeting was held in Hearing Room 137 of the State Capitol, Helena, Montana.

1. Approval of Minutes for March 11-12, 2004 (Tape 1A-0013)

Senator Tropila asked for clarification regarding the timber revenue noted on page 4. Mr. Schenck stated the amount should be \$5.0 million instead of \$5.0 billion. **Senator Bales** moved the minutes of the March 11-12, 2004 meeting be approved with the correction noted above.

VOTE: The motion carried unanimously.

Mr. Schenck, LFA, LFD, advised the committee of the resignation of two of our analysts, Pam Joehler and Todd Younkin.

He also announced that the National Conference of State Legislatures (NCSL) selected Terry Johnson, Principal Fiscal Analyst, of the Legislative Fiscal Division, to receive its Legislative Fiscal Staff Achievement Award. The announcement included an overview of Johnson's career accomplishments and focused on recent achievements, such as his development of databases that help the staff of the LFD to better serve the Legislature.

2. Dept. of Public Health and Human Services Issues (Tape 1A-166)

Pat Gervais, Senior Fiscal Analyst, LFD, presented a report on Developmental Disabilities Program: Update on Emerging Issues. (Exhibit 1) The purpose of this report is to provide an update on emerging issues within the DD system, Travis D. Settlement Agreement, Medicaid Redesign, and Potential De-certification for Medicaid reimbursement of some MDC residents.

DD System Redesign

Ms. Gervais discussed the redesign of DD services, aspects of the system and how it operates. While the department has indicated the redesign project would be budget neutral, there are two Executive Planning Process (EPP) requests for the 2007 biennium budget that are at least partially related to the redesign; 1) \$.4 million general fund and \$.9 million total funds for 9 additional case managers; and 2) \$.9 million general fund and \$2.1 million total funds for a 1 percent provider rate increase.

Litigation Travis D. Settlement Agreement

Ms. Gervais explained how the impacts of the settlement agreement in the Travis D. Planning and implementing provisions of the Travis D. settlement agreement are becoming interwoven with the day-to-day operations of the DD system. The department is assessing the implications of the settlement agreement on various parts of the system and projects that are underway.

In correspondence dated April 19, 2004, legislative legal counsel responded to a number of questions about the Travis D. settlement agreement that were posed by a member of the legislature.

Medicaid Redesign

Ms. Gervais said the Medicaid redesign effort has been concluded and legislative staff received copies of the final report in early June. The Medicaid redesign advisory council did not consider or provide recommendations on policy issues related to the DD system redesign. However, the Medicaid redesign group did provide the DD system a recommendation that they review policies on deeming of assets and cost sharing for services.

Potential De-certification for Medicaid reimbursement of some MDC residents

Ms. Gervais reported that in February 2003, the department was notified informally of the potential de-certification for Medicaid reimbursement of services for 19 individuals at MDC. To date, the department has not received formal notification of these findings and cannot appeal until such formal notification is received.

Impact of Recent Court Cases (Travis D.)

Ms. Gervais discussed her report Travis D. Settlement Agreement: Potential Cross System Impacts and Implications. (Exhibit 2) The purpose of this report is to inform the LFC of potential impacts the provisions Travis D. settlement may have on other disability service systems, and on eligibility for services and to review the over-arching policies recommended by the Governor's Health Care Advisory Council and adopted by the department. The over-arching policies are interrelated to the cross system impacts of Travis D. Ms. Gervais responded to questions from LFC members.

Lois Steinbeck, Senior Fiscal Analyst, LFD, discussed the over-arching policies of the report. At the last LFC meeting, the committee heard a report about the lack of over-arching policies to guide allocation of resources among competing entities and requested that the Governor's Health Care Advisory Council consider over-arching policies. DPHHS staff indicated that it would bring language before the Council and a recommendation would be available for review at this

meeting. A description of the recommendations begins on page 5 (Exhibit 2). One of the Council recommendations, which are being implemented by DPHHS, is a statement of overarching goals and policy. DPHHS will propose that the guidelines be included in statute.

Ms. Steinbeck provided issues for the LFC to consider with respect to the language proposed in the final report and whether it would endorse the language and also endorse the inclusion of such language in statute.

Russ Cater, Chief Legal Counsel, DPHHS, provided comments in response to the Travis D. Settlement (Exhibit 3). Mr. Cater stated that the provisions of the agreement were carefully drafted and reviewed by several legal counsels for the State from the Department and the Attorney General's Agency Legal Services and by retained outside counsel. The settlement is a contractual agreement that is binding only with respect to the provisions appearing in the body of the agreement. The language was crafted to allow the State to conform to other state laws and budgeting considerations. The parties have structured into the settlement a mediation process for disagreements, which met with the positive approval of the Court. **Rep. Forrester** asked Mr. Cater to work with the LFA to develop a protocol for involving a number of legislators in major litigation.

Selected Medicaid and MHSP Issues

Lois Steinbeck, LFD, explained the issues this report presents to Medicaid funded services and to administration of the Mental Health Services Plan (MHSP). (Exhibit 4) At the March LFC meeting, the committee reviewed a staff report that requires DPHHS to provide Medicaid estimates to the LFC for its review. The committee directed staff to work with DPHHS staff to suggest amendments to the statute. Ms. Steinbeck provided options for LFC consideration.

Gail Gray, Director, DPHHS, said that the department is in agreement with option 1 but is opposed to option 2.

The LFC directed staff and DPHHS staff to come back with an amended form of Option 2.

Medicare Prescription Drug Coverage

Ms. Steinbeck discussed the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and the transition plan prior to full implementation of the new Part D drug benefit, effective January 1, 2006, as part of the Medicare program. She said that DPHHS decided that it would not require MHSP participants to participate in the transitional assistance plan. Ms. Steinbeck provided options for LFC consideration, which may require follow up at the next meeting:

Gail Gray, Director, DPHHS, agreed that the issue should be revisited. The Department will perform a feasibility review including a cost benefit analysis.

Ms. Steinbeck referred to the response from Kathy McGowan on behalf of the Community Mental Health Centers (Exhibit 4a), which indicates they would not like to see this done because people that are low income have no pharmacy benefit for physical health problems.

Ms. Steinbeck said that a final report and analysis on the Medicaid Redesign wouldn't be available until the next meeting. At the last meeting of the Advisory Council a draft document that listed recommendations was reviewed. Only Council members received copies of the draft report. The ability of LFD staff, as well as the public to understand, evaluate, and effectively comment on Council decisions was severely impaired by the final meeting process. LFD staff requested a legal opinion regarding the action to withhold the draft report until after the final Advisory Council meeting was completed.

Valencia Lane, Legislative Attorney, Legislative Services Division, provided a response (Exhibit 5) which states that the Council is a "public body which deliberates on substantive issues that are the public's business", and accordingly was subject to the open meeting laws and the constitutional rights to know and participate.

Gail Gray, Director, DPHHS, responded that the Department believes that the Advisory Council's study process has complied with all requirements under Montana law for open

meetings and public participation. There is no need for further meetings of the Advisory Council, which has disbanded.

No action was taken on this issue.

3. School Funding Court Decision: Potential Fiscal Issues/Impacts (Tape 2A-665)

Greg Petesch, Director Legal Services, LSD, discussed the School Funding Decision Synopsis (Exhibit 6). This case involves a challenge to the constitutionality of Montana's current system for funding its public elementary and secondary schools. On April 15, 2004, Judge Jeffery Sherlock found the state's school funding system unconstitutional. Mr. Petesch responded to questions from LFC members.

Jim Standaert, Senior Fiscal Analyst, LFD, said that according to the district court decision, the funding formula is based too much on variable factors and not fixed factors. The funding formula should be based on educationally relevant factors and the state's share must be an amount that is adequate at the BASE or foundation levels to allow districts to meet the standards.

Clayton Schenck, LFA, LFD, distributed an announcement from the Governor that she will appeal the district court decision to the Montana Supreme Court. (Exhibit 6a)

4. District Courts Statewide Assumption Project: Fiscal Update (Tape 2B-469)

Harry Freebourn, Associate Fiscal Analyst, LFD, presented a report on the District Courts Statewide Assumption Project. (Exhibit 7) The purpose of the report is to update the LFC on significant unfavorable budget variances in the District Courts Statewide Assumption Project. There has been no significant change in this situation since the March 2004, LFC report.

Mr. Freebourn reported that based on current and projected expenditures through the remainder of fiscal 2004, the Judiciary predicts that it will experience \$3.4 million in cost overruns during fiscal 2004. The Judiciary expects that it may be able to save \$0.5 million in the operating expenditure area and by using \$1.0 million of 2003 biennium general fund reversions as approved in a language appropriation for the 2005 biennium. The potential for a supplemental is

between \$4.8 and \$5.8 million.

Jim Oppedahl, Administrator, Montana Supreme Court, listed some of the things the court has done to control costs:

- o Adopted a classification and pay plan
- o Forced vacancy savings
- o Forced operational reductions
- o Established a uniform contract for drug testing
- o Encouraged the use of video conferencing
- o Eliminated private car leasing for Judges
- o Implemented a statewide identification card for court appointed attorneys to obtain state rates for lodging

Mr. Oppedahl explained they couldn't control costs such as management of public defender offices, counties contracts for public defenders, the severity or number of cases, county attorney charges, and witness fees. Mr. Oppedahl estimated in 2004 they would spend approximately \$10.2 million for variable expenses related to public defender expenses.

5. State Fund: Old Fund Deficit and New Fund Rate Increase (Tape 3A-460)

Harry Freebourn, Associate Fiscal Analyst, LFD, presented a report on the Montana State Fund: Old Fund Projected Deficit and New Fund Rate Increase. (Exhibit 8) The purpose of this report is to inform the LFC about two fiscal impacts to the State of Montana that relate to the funds managed by the Montana State Fund.

Mr. Freebourn reported that the Old Fund is projected to experience an ending fund deficit of approximately \$0.6 million by the end of fiscal 2004, which creates a potential general fund liability for the State of Montana. The LFD, MSF, and the SB 304 Study Committee are considering when a deficit in the Old Fund is to be funded by the general fund because the current statute is vague on the timing of any funding.

Mark Barry, Vice President, Corporate Support, Montana State Fund, presented a report on the areas of concern of impact on the state's general fund as it relates to workers' compensation.

(Exhibit 8a) The two areas of concern are costs of worker's compensation insurance to agencies of the state of Montana and the status of the Old Fund, which is administered by Montana State Fund on behalf of the state. Mr. Barry said that the three issues driving the projected deficit are lower than expected investment earnings, increasing medical expenses, and the aging of plan participants. **Rep. Lewis** asked how Montana's investment performance compares to similar states. Mr. Barry said the Old Fund is earning about 4.9 percent on the investments. The Board of Investments does not have a benchmark to compare the performance against. **Rep. Forrester** asked how much money has been taken out of the Old Fund to date under HB 363. Mr. Barry said \$23.1 million. **Rep. Forrester** also asked how much money was anticipated to be transferred to the general fund. Mr. Freebourn stated the MSF originally predicted that the Old Fund would create a surplus in fiscal 2004 of \$4.3 million and \$3.8 million in 2005. **Rep. Forrester** asked Mr. Johnson how this would impact the general fund. Mr. Johnson said the LFD general fund revenue estimates provided at the March meeting included the reduction in revenue. **Representative Forrester** asked Chuck Swysgood, OBPP, if we are obligated to pay back what was transferred due to the deficit. Mr. Swysgood said we are not obligated as long as there are funds available in the Old Fund. Mr. Barry agreed with Mr. Swysgood.

New Fund

Mr. Barry reported that based on the pricing established for state agencies for fiscal year 2005, pricing will increase for agencies an average of 18 percent. Some agencies will see a higher increase than this and some will see a lower increase, while some others will see a decrease. The aggregate increase is predominantly driven by the three largest agencies, Department of Transportation, Department of Public Health and Human Services and Department of Corrections.

Friday, June 18, 2004

ROLL CALL

Rep. Dave Lewis
Rep. John Brueggeman
Rep. Gary Forrester
Rep. Dave Kasten
Sen. Keith Bales
Sen. Rick Laible
Sen. Jon Tester
Sen. Emily Stonington
Sen. Joe Tropila
Sen. Tom Zook
Clayton Schenck, Legislative Fiscal Analyst
Diane McDuffie, Committee Secretary

ABSENT

Rep. Rosalie Buzzas
Rep. Monica Lindeen

Call to Order (Tape 4A-004)

The 189th meeting of the Legislative Finance Committee (LFC) reconvened on Friday, June 18, 2004, and was called to order at 8:10 a.m. by **Senator Keith Bales, Vice Chair**, in Hearing Room 137 of the State Capitol, Helena, Montana.

6. Report on Governor's Initiative Re: Environmental Contingency Account (Tape 4A-012)

Gary Hamel, Senior Fiscal Analyst, LFD, presented a report on the Governor's Initiative Re: Environmental Contingency Account (Exhibit 9). This report discusses whether spending \$100,000 from the environmental contingency account for an engineering study on the St. Mary Facilities is in compliance with 75-1-1101. Citing potential of the facilities to fail within 10 years and economic value to the areas, the Governor is proposing to use \$100,000 of the environmental contingency account to pay for an engineering study to determine the scope of repairs on the St. Mary Facilities. Since engineering studies are not specifically mentioned in the statute as an approved use, LFD staff sought input from legal services regarding using the fund for this purpose.

As stated in a memo from Greg Petesch, Director Legal Services, LSD, the proposed use meets the definition of a "renewable resource development project" in section 75-1-1101(3)(a), MCA. Mr. Petesch also pointed out that the project does not appear to meet one of the legal requirements of statute. Statute indicates that the money can only be used upon the authorization

of the Governor to meet unanticipated public needs. According to Mr. Petesch, the need to repair a 100-year old facility is not “unanticipated.”

Mr. Hamel presented two options the LFC may wish to pursue.

- 1) Send a letter to the Governor that states Legislative Branch legal counsel has determined that using money from the environmental contingency account for an engineering study is not legal; or
- 2) Take no action.

Senator Laible asked what the outcome would be if the committee chose to take no action. Mr. Hamel said the Governor could spend the money.

Karl Ohs, Lieutenant Governor, said that the Governor seeks concurrence from the LFC to spend the \$100,000 of the environmental contingency account. Mr. Ohs also told the committee during the 2003 session it was understood that the Bureau of Reclamation was proceeding with investigations and it was anticipated that in the near future the Bureau would discuss their plans to rehabilitate the system with the public. It became clear last summer that the Bureau had no intention to move a project forward. Local producers will match the \$100,000 and that money could also be used as a match once the federal funds were secured.

Public Comment

Representatives from various associations offered comments to the committee regarding the importance of this project and expressed support for the Governor’s request to spend the \$100,000 from the environmental contingency account. Comments were received from: Randy Reed, Milk River Project; Paul Tuss, Bear Paw Development; Mark Manoukian, Phillips County Economic Growth Council; John Musgrove, HD 91; Larry Mires, Two Rivers Economic Growth; Steven Page, Rancher, Glasgow Irrigation District; John Blomquist, Milk River Joint Board of Control; and John Tubbs, DNRC. Randy Reed provided a handout of photos taken of the St. Mary Facilities (Exhibit 9a) and John Tubbs, DNRC, provided maps of the hi-line and potential water supply crises. (Exhibits 9b and 9c)

Chuck Swysgood, OBPP, said that if the committee does not give their support, he would recommend to the Governor that she not spend the money for the engineering study.

Valencia Lane, Attorney, LSD, said that using the money for an engineering study would not be outside the intent of the statute.

MOTION: Representative Kasten moved that the Legislative Finance Committee urge the Governor to use \$100,000 out of the contingency fund for the St. Mary project. **VOTE:** Motion carried unanimously.

MOTION: Senator Tester moved that the Legislative Finance Committee send a letter to our Congressional delegation urging them to obtain funds for this project. **VOTE:** Motion carried unanimously.

7. General Fund/Federal Fund Update: 2005 Biennium Projected (Tape 4B-270)

Terry Johnson, Principal Fiscal Analyst, LFD, presented a report on the General Fund Revenue Update Fiscal 2004. (Exhibit 10) The purpose of this report is to provide the committee with information on significant general fund revenue trends that are occurring in fiscal 2004. Mr. Johnson's report is organized into the following sections: 1) fiscal 2004 general fund revenue outlook including a discussion of selected general fund revenue sources; 2) significant economic trends that illustrate why selected revenue collections have changed from the HJR 2 estimates; and 3) a summarization based on information received so far this fiscal year.

Mr. Johnson reported that based on information recorded through the end of May 2004, total general fund receipts for fiscal 2004 were \$1,067.7 million. This compares to \$962.6 million above last year's amount. Based on data through the end of May 2004, total general fund revenues have the potential to exceed HJR 2 revenue estimates by \$40.2 million. The tax sources with significant changes from the HJR 2 estimates are individual income, oil and gas, video gambling, and inheritance taxes. A full report on the financial status of the general fund account for fiscal 2004 will be released in October.

Chuck Swysgood, Budget Director, OBPP, provided a response on behalf of the executive, stating they generally agree with Mr. Johnson's report for the 2005 biennium.

8. 2005 Biennium Budget Spending "Pressure Points" (Tape 5A-100)

Taryn Purdy, Principal Fiscal Analyst, LFD, presented a report on the 2005 Biennium Budget Spending "Pressure Points". (Exhibit 11) The purpose of the report is to alert the LFC of potential cost overruns and areas of concern.

The areas of concerns identified in the report are: Judiciary, Fire Costs, Corrections, K-12 Education, Payback of Workers' Compensation to the Federal Government, Payouts for Exempt Elected Officials Staff/Agency Directors, and Major Litigation.

- The anticipated supplemental requirement for Judiciary is between \$4.8 and \$5.8 million depending upon mitigation efforts.
- State fire costs in fiscal 2004 have been revised upward, and the total available for fire costs in fiscal 2005 is now between \$3.7 million and \$5.2 million.
- Department of Corrections remains a concern in the 2005 biennium due to prison population pressures. Continuation of current conditions, expenditures could exceed the appropriation by as much as \$3.0 million in fiscal 2005.
- The Department of Administration has unofficially estimated a minimum of \$400,000 may be owed for the payback of Workers' Compensation to the federal government.
- It is unknown at this time how many or which directors and exempt elected official staff will be leaving and consequently the cost of payouts.
- As of June 1, the Department of Justice has expended 82 percent of the entire biennial appropriation to fight major court cases on the state's behalf. While there are currently no further major cases, the program could face a shortfall in the next fiscal year.

Ms. Purdy advised the committee the supplemental request for K-12 would no longer be needed.

9. Wildfire Suppression Issues (Tape 5A-005)

Gary Hamel, Senior Fiscal Analyst, LFD, presented a report on DNRC Fire Costs. (Exhibit 12) The report included: 1) a fire cost estimate table; 2) a discussion on the use of the average

fire costs as a planning tool to estimate fire cost impacts on state resources; 3) updates on FEMA, reimbursable costs, Forest Service bill, and Federal Jobs and Growth Tax Relief Reconciliation Act (JGTRRA); and 4) the fire cost study group. Mr. Hamel reported that the state has paid \$43.0 million to cover actual state protection costs, anticipates paying an additional \$36.4 million of fire costs, and is estimating approximately \$0.2 million for Spring 2004 wildfire costs. These calculations bring the total paid and anticipated obligations of fire suppression to approximately \$79.6 million.

Once FEMA and assistance to other entities are accounted for, the net cost of fire suppression in fiscal 2004 is estimated to be \$35.0 million. The cost above the original estimated Forest Service bill coupled with a decrease in the estimated FEMA grant award results in a \$3.3 million increase over estimates reported at the March 2004 LFC meeting.

The state has utilized \$27.4 million of Federal Jobs and Growth Reconciliation Act grant money, leaving a remaining fire cost total of \$7.6 million.

Mr. Hamel provided a copy of the Alternatives for Funding Wildfire Costs in Montana report by the Montana Department of Natural Resources and Conservation Forestry Division. (Exhibit 13)

Senator Laible asked if anything was accomplished from the Fire Funding Committee meetings that will help the Legislature in the future to fund wildfires. Mr. Hamel said the Committee looked into a number of efforts which involved raising the question of assessments, but none of the stakeholders were willing to consider new or increased assessments.

Bud Clinch, Director, Department of Natural Resources and Conservation (DNRC), clarified that the \$79.0 million fire bill is the responsibility to the state of Montana for protection of state responsibility lands, primarily private lands and state lands under fire protection provisions. He also explained that the \$21.4 million FEMA reimbursement is for invoices already paid. The state still has the Forest Service bill that has not been paid and also a \$1.4 million bill from the California Division of Forestry.

In response to a question from **Senator Bales** regarding the percent of FEMA reimbursement, Mr. Clinch said that the criteria for FEMA reimbursement is 75 percent of qualified expenses.

Lisa Blanford, Performance Auditor, Legislative Audit Division, reported that they have started the fieldwork and the performance audit report should be available at the November Legislative Audit Committee meeting.

10. Homeland Security and All Hazards Emergency Management (Tape 5B-275)

Alan Peura, Associate Fiscal Analyst, LFD, presented a report on Homeland Security and All Hazards Emergency Management. (Exhibit 14)

Mr. Peura's report provides information on the system in place in Montana to address all hazards emergency management, an inventory of homeland security and emergency management funding in Montana, an illustration of the relationship between homeland security and all hazards emergency management at the state and federal levels, and an analysis and assessment of the all hazards emergency management system at the federal, state and local levels.

There are two issues and decision points for LFC to consider: reduction of federal funding for homeland security, and a federal funding cap on personal services (25%) on EMPG.

Dan McGowan, Administrator, DES and **Maggie Bullock, Administrator, Public Health and Safety Division, DPHHS**, responded to questions from the LFC members. Mr. McGowan provided a summary of all Montana homeland security grants received since 1999 (Exhibit 14a) and Montana Disaster and Emergency Services Emergency Management Coordination Schematic. (Exhibit 14b)

MOTION: Senator Laible moved that a letter be sent to the Montana Congressional delegation from the LFC regarding homeland security funds only. **VOTE:** Motion failed.

MOTION: Senator Stonington moved that a letter be sent to the Montana Congressional delegation asking that the proposed cap on the Emergency Management Performance Grant funding be eliminated from the 2004 federal budget. **VOTE:** Motion carried unanimously stating: “Therefore, we are asking that you exercise great diligence to see that this proposed cap on the Emergency Management Performance Grant funding is eliminated from the 2005 federal budget.”

MOTION: Senator Tester moved that a letter be sent to the Montana Congressional delegation stating that if money is appropriated for homeland security, that Montana be included in the allocation of funds. **VOTE:** Motion passed.

11. Business Process Reviews (Tape 6A-250)

Greg DeWitt, Senior Fiscal Analyst, LFD, provided a report on Business Process Reviews (BPRs). (Exhibit 15) At the March 2004 LFC meeting, the committee directed staff to research options for formalized BPRs and report the findings and options. Research has found that there is no all-encompassing formalized process review policy for all state business processes to be reviewed in a systematic and recurring manner. There is also no list identifying all state business processes that provide services and functions required in state law. Without a list of business processes, the fiscal impacts of the various legislative options cannot be determined, nor can a frequency interval for repeated reviews be recommended or the agency impacts and concerns identified.

Mr. DeWitt explained the policy regarding oversight of agency operations and provided options to the committee for consideration.

MOTION: Senator Bales moved that option 3b, “Do not submit legislation, and direct the Legislative Fiscal Analyst to incorporate this study in the Legislative Fiscal Division work plan for the 2007 biennium.” **VOTE:** Motion carried unanimously.

12. 2005 Biennium Information Technology Major Projects Update (Tape 6B-256)

Jeff Brandt, Acting State CIO, Department of Administration, provided the committee with

a handout on the Major IT project portfolio status as of May 31, 2004. (Exhibit 16). Mr. Brandt said two projects bear watching: 1) the judiciary court automation project is at risk because of slower than expected revenue collections needed to fund the projects; and 2) a Department of Labor and Industry project to move unemployment insurance claims to the Internet is experiencing requirement volatility and still needs key decisions regarding the project's scheduling.

Mr. Brandt also said that the IRIS project is ahead of schedule and under budget. The committee discussed with Mr. Brandt and Budget Director Chuck Swysgood the possibility of continuing with the next phase of the project with funding saved in the current project. Members of the Committee encouraged the budget director to utilize current authorization to continue with additional tax types.

Represent Lewis expressed concerns regarding the Board of Investments loaning coal trust money to agencies for projects. In conclusion, LFD staff was directed to look into the statute regarding this issue.

13. Program Priorities Project (7B-246)

Taryn Purdy, Principle Fiscal Analyst, LFD, presented a report on Analysis of State Program Priorities: Status. (Exhibit 27). This report provides a further update on progress along with current and projected outcomes.

Ms. Purdy said staff is looking at three different projects. One of the primary components is the creation of an inventory of state government functions. All state agency functions have been identified and categorized. Remaining to be completed is construction of a database that maps each function to the cost reporting centers on the state's accounting system and insertion into the database of all functions and mapping of cost centers. The agency profiles are in early stages, although most of the information necessary for completion has been gathered for expenditure growth and inventory projects. Target completion date for all agency profiles is August. The "Fact Book" is currently the third priority for project completion. Consequently, completion

could be delayed until next interim if time constraints warrant. Ms. Purdy responded to questions from LFC members.

14. UM Special Athletics Investigation Panel (7A-481)

Pam Joehler, Senior Fiscal Analyst, LFD, presented a report on the UM Special Athletics Investigation Panel. (Exhibit 17) The purpose of this report is to inform the LFC of the circumstances that contributed towards the University of Montana athletics deficit, how the Board of Regents and Montana University System are going to address the issues, and what impact, if any, this had or will have on state appropriated funds.

She said that the University of Montana has been reporting a deficit in its athletics program since fiscal 1999. In May 2000, President George Dennison submitted a three-year plan to balance the athletic budget by fiscal year end 2003. Subsequent submissions of the Comprehensive Athletic Report showed a total funds athletic deficit of \$321,650 for fiscal 2001 and \$380,562 for fiscal 2002 and a surplus of \$136,344 in fiscal 2003. The fiscal 2004 all funds athletic budget was projected to have a \$232,805 surplus. The NCAA audit and the annual audit of the Grizzly Scholarship Association uncovered several accounting and budgeting errors. By the end of February 2004, it was determined that fiscal 2003 revenues were overstated by \$381,000 and fiscal 2004 budgeted expenditures were understated by \$578,000 resulting in an estimated fiscal 2004 deficit of \$959,000.

She also report reported that in early March 2004, the Commissioner of Higher Education appointed an 11-member, independent panel to investigate UM Athletics. The panel issued 42 findings and 26 recommendations to address the issues uncovered in its investigation. After hearing the panel's report at their May meeting, the Board of Regents unanimously accepted the panel's recommendations and requested an internal audit of the athletic department's use of state-issued credit cards. Following extended discussion, the Board modified and approved the University of Montana's plan to eliminate the athletic deficit by fiscal 2009. The option to seek additional state funds from the legislature to solve the athletic deficit was not an option presented by the University of Montana administration or raised by the Montana Board of Regents.

On behalf of the committee, **Representative Forrester** thanked Pam for her years of service and wished her well in her new job.

15. Status Reports on Other Interim Study Committees (7B-178)

The status reports on Postsecondary Education Policy and Budget Subcommittee (Exhibit 22), Legislative Study Committees (Exhibit 23), Public Defender Project (Exhibit 24), Law Enforcement Academy Update (Exhibit 25), and Issues regarding POINTS Replacement Project (IRIS) (Exhibit 26) were included in the LFC notebooks but were not formally presented.

16. Required Reports (7B-001)

Greg DeWitt, Senior Fiscal Analyst, LFD, presented for action a memo for a supplemental appropriation for the Appellate Defender. (Exhibit 18) Mr. DeWitt explained the budget office recommended a supplemental appropriation to move up to \$3,000 general fund authority from fiscal 2005 to fiscal 2004. Attached to Mr. DeWitt's memo is documentation from the budget office listing the justification for the supplemental, (Exhibit 18a). Mr. DeWitt said the justification quantifies two unplanned expenditures during fiscal 2004. He explained the committee actions and provided options.

MOTION: Representative Lewis moved to adopt recommendation #1 "Report to the Governor stating the committee has no concerns with the approval of the supplemental appropriation."

VOTE: Motion carried unanimously.

Taryn Purdy, Principle Fiscal Analyst, LFD, presented the operating plan changes and program transfer (Exhibits 19, 19a, 19b, 19c) budget amendments (Exhibit 20) and required reports (Exhibit 21). She informed the committee that no action is required as these reports are informational only with no issues identified by LFD staff.

17. Committee Business (7B-528)

Clayton Schenck, LFA, LFD, presented the items under committee business. (Exhibit 28) There were no items that required any action by the committee.

Next LFC Meeting

The next meeting of the LFC will be held October 7 and 8, 2004.

Adjournment

MOTION: Senator Brueggeman moved to adjourn. **VOTE:** Motion carried unanimously.

Meeting adjourned at 3:40 p.m.

Representative Gary Forrester, Chairman

Diane McDuffie, Committee Secretary